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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/545,034	04/06/2000	Eduardo Cue	P2512/560	9025

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EXAMINER

ZURITA, JAMES H

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 04/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/545,034

Applicant(s)

CUE ET AL.

Examiner

James Zurita

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-- The MAILING DATE of this communication appears in the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-72 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-72 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 April 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

The drawings are objected to because:

Fig. 2A, item 74, "catalog administrator" is not described in the specifications.

Fig. 2A lacks a connection between item 76 and item 66, as described on page 7, lines 26-29:

The reconciliation application 76 checks the changes to the product grouping 66 (or uses some other signal indicative of a change to the product line) against the data in the individual custom store data 64 and 65.

Fig. 3 lacks item 101, which is mentioned on page 9, lines 1-4:

This causes the database in the server system 101 to be changed. The administration URL is provided to the external administrator in step 102. In step 104, the external administrator uses the URL to go to an administration page created by the server system 101.

Fig. 3 lacks item 116, which is mentioned on page 9, line 18-20:

A notification E-mail sent to the administrator in step 116 and the administrator can modify the selections and virtual bundles to remove obsolete products from the custom store.

Fig. 3 contains item 102, which has been used to designate both a "server system" and "administration URL provided to external administrator".

Fig. 3 contains items 100 and 110. It is not clear what actions are envisioned for items 100 and 110:

- Item 100, contains the text "Internal Operator sets up new custom store with instantiation application." The text should be changed to match Page 8, line 28-page 9, line 2:

Fig. 3 is a diagram that illustrates the operation of one embodiment of the present invention. In block 100, the **vendor** sets up a new custom store using the instantiation application. This causes the database in the server system 101 to be changed.

- Item 110, contains the text "Administrator modifies selection and virtual store bundles to remove obsolete products form custom store." Page 9, lines 10-13, describes the following:

The user can select and go to the custom store page in step 110. The use of the secure page run by the external organization is described in detail below with respect to Fig. 4. This step adds security to the operation of the present invention. In step 110, the correct custom web page is created.

Fig. 4 contains item **128**, which is not described in the specifications.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

For example, the disclosure is objected to because of the following informalities:

Page 7, line 24 refers to a "custom store data" for Fig. 2A. There is no "custom store data" in Fig. 2A, although item **64** refers to a "custom store administrator data" and item 65 refers to a "custom store data." Fig. 1 contains item **48**, page 6, line 21, but it is not clear whether item **48** is also seen as part of Fig. 2A and 2B.

Page 9, lines 1-4, server system **101**, is not found in any of the figures.

Page 10, line 27-page 11, line 2, "store type ID" which is not found in Fig. 5.

Page 11, line 4 states, "Block **22** includes the "Can Be Configured" field ..." This appears to be a word processing error. Examiner believes the text should read: "Block **132** includes the "Can Be **Re**configured" field..." to match Fig. 5.

Page 12, lines 26-29 refer to a copending related application. The text should be amended to include application number "09/566718" and attorney docket information "P2513/561."

Applicant is encouraged to review their disclosures for similar errors. Appropriate correction is required.

### ***Double Patenting***

Claims 1, 26, 41, 56 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-47 of copending Application No. **09/544718**, filed 04/06/2000, entitled "Virtual Bundles". Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications include claims to selling virtual bundles of products at customized web sites.

Claims 1, 26, 41, 56 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-44 of copending Application No. **09/607913**, filed 06/30/2000, entitled "Stored Order System For Electronic Commerce". Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications include

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claims to placing orders over the Internet and storing the orders at a centralized database.

Claims 1, 26, 41, 56 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-45 of copending Application No. **09/945208**, filed 08/31/2001, entitled "Electronic Single Action Software Distribution". Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications have claims addressed to ordering bundled products over an e-commerce network.

These are provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 refers to a configuration date. This appears to be a word processing error, since there is no mention of "date" in the specifications, and other claims refer to "configuration data." For purposes of this examination, Examiner will interpret claim 10 to refer to "configuration data."

Claim 11 reads, "The system of Claim 12, wherein ...". Claim 12 reads, "The system of Claim 11, wherein ...". The text in claim 11 appears to be a typing error. For purposes of this examination Examiner will interpret claim 11 as depending on claim 1.

Claim 27 reads, "The computer-readable medium of claim 26, wherein the program further includes the setting up of multiple customs to a web page for different groups." It is not clear what applicants are claiming.

Claims 16, 36, 51 and 66 contain limitations to the term "referrer URL." The specification contains the terms "referer" (3 times) and "referrer" (4 times). "Referrer URL" appears only on page 10, line 27.

Claim 51, drawn to a system, is an improper dependent claim since related claims 41-55 are directed to a method, and the word system does not appear in the claim 50 or claim 41.

While applicant may be his or her own lexicographer, a term in a claim may not be given a meaning repugnant to the usual meaning of that term. See *In re Hill*, 161 F.2d 367, 73 USPQ 482 (CCPA 1947). Applicants' use the term "system" may lead to confusion: The term "system" in claim 30 appears to mean a "virtual bundle" that includes devices for a computer configuration. The term "system" in claims 34, 71 and 72 appears to mean a server site and its related software as one would find in client/server architecture. The term "system" in claim 51, a method claim, appears to refer to server-side code that checks a URL. Additional confusion may be created in that claims 1-25 are "system" claims, while claims 26-40 are drawn to computer-readable medium, claims 41-55 are method claims, and claims 56-72 are directed to an apparatus.

The term "obsolete" in claims 23, 24, 39, 54, 55, 69 and 70 is a relative term which renders the claim indefinite. The term "obsolete" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one

of ordinary skill in the art would not be reasonably apprised of the scope of the invention. There is no mention of who determines that a part or product is obsolete. Further, since parts and products in computers can be upgraded and exchanged, it is not clear what makes a part or product obsolete. For purposes of this examination, the term obsolete will be interpreted to refer to compatibility, as defined below.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blinn (US Patent 6,058,373) in view of Henson (US Patent 6,167,383).

Blinn discloses the limitations of applicants' claims, and permits merchants, groups and organizations to create customized virtual stores on the Internet from models and templates stored in a server's databases. The customized web pages provide a virtual store with its own unique look and feel, as determined by the merchant's administrator.

Administrators may access and update store fronts from their computers, using the HTTP protocol, which transmits URL information from clients to a centralized server (see at least Col. 6, line 20-Col. 7, line50). Administrators use server software and merchant data to instantiate web pages without vendor input. Configuration data



permits administrators to define properties and relationships for products and how the products are displayed on a custom store's pages.

Product properties may include entries for each item, including quantity, color, size and models, item discount, item price, etc. (see at least Col. 2, lines 19-28). Blinn discloses the use of "product families", that is, products that may be bundled together for marketing purposes, creating what applicants refer to as virtual bundles.

Blinn discloses that security and access to various environments (production, development and post-development environments) may be determined via a portion of the URL. See at least Col. 14, line 55 - Col. 15, line 54.

Blinn *does not* specifically disclose that groups that use his invention may include colleges and universities. Henson allows customized web stores to identify what he refers to as "customer sets", according to what link a customer executed to get to the online store. A store's configuration data may be used to determine what part of an online store a customer gets to see. Customer sets, according to Henson, may include individual customers, businesses, organizations, federal government, etc. See at least Col. 14, lines 19-61.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include colleges and universities among the groups that create customized web stores. One of ordinary skill in the art at the time the invention was made would have been motivated to include colleges and universities among the groups that may create customized web stores for the obvious reason that, like government groups, educational organizations may wish to standardize hardware

and software that is used by their students. This tendency is very obvious when one registers for a course. For example, students in a calculus course would normally be asked to purchase a specific textbook. While it may be possible to attend classes and learn with another textbook, or a different edition of the same textbook, both students and teachers would suffer from the lack of standardization.

*Neither Blinn nor Henson* use the word "obsolete" to describe aspects of his inventory. Henson discloses a validation warning module, which provides customers with warnings concerning product compatibility and upgrade issues. Henson also describes dynamically setting flags that identify critical properties of particular products, such as when a product requires a long lead-time. See at least Col. 8, line 7-Col. 9, line 8. Compatibility refers to the degree to which a computer, an attached device, a data file or a program can work with or understand the same commands, formats or language as another.<sup>1</sup>

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include software that checks and identifies products that are obsolete. One of ordinary skill in the art at the time the invention was made would have been motivated to include software that checks and identifies products that are obsolete for the obvious reason that by selling incompatible or obsolete products, a merchant loses customers and tarnishes its reputation.

### ***Conclusion***

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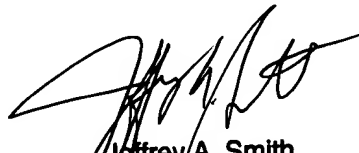
<sup>1</sup> Definition of Compatibility, MICROSOFT PRESS Computer Dictionary.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Zurita whose telephone number is 703-605-4966. The examiner can normally be reached on 8:30 am to 5:00 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

JZ  
**James Zurita**  
**Patent Examiner**  
**Art Unit 3625**  
April 25, 2003

  
Jeffrey A. Smith  
Primary Examiner